

REMARKS

Claims 1-11, and 23-24 are now pending, wherein claims 1, 4 and 10 are amended, non-elected claims 12-22 have been withdrawn from consideration, and new claims 23 and 24 have been added.

Figures 1 and 2 have been replaced with formal drawings of Figures 1 and 2 wherein the reference numerals and lead lines are uniform throughout the figures in order to overcome the objections to the drawings set forth at page 2 of the Office Action.

Claims 1-10 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,875,824 ("Atwell") for the reasons set forth at pages 2 and 3 of the Office Action.

Claim 1 is directed to an apparatus having a novel combination of features including a rotating wheel having at least one pocket defined in an outer circumferential surface, wherein the at least one pocket receives the material in the filling chamber and the outer circumferential surface defines at least part of a lateral side of the filling chamber, and a conveying device adapted to position at least one article having at least one cavity to be filled with the material underneath said wheel to receive said material from said at least one pocket.

Claim 10 is directed to a method having a novel combination of features including providing a wheel rotatable around a stationary drum defining a vacuum chamber, said wheel having at least one pocket defined in its outer periphery, and at least a portion of the outer periphery of said wheel defining at least a portion of one lateral side of a filling chamber, rotating said wheel around said stationary drum and creating a vacuum in said vacuum chamber, dropping said material into said filling chamber, and communicating said vacuum to said at least one pocket over a distance from when said at least one pocket is positioned along said one side of said filling chamber and interrupting said vacuum at a point at which material in said at least one pocket is transferred to a cavity in an article.

The Office Action appears to rely upon the two metering wheels 200, 400 disclosed in Atwell for a disclosure of a rotating wheel.

Applicant respectfully submits that Atwell does not disclose or suggest the above-described novel combinations of features. In Atwell, material from the filling chamber 300 is first received in pockets 210 of rotating wheel 200, then transferred to pockets 410 in rotating wheel 400, and finally transferred from the pockets 410 of rotating wheel 400 into spaces 7 between adjacent pairs of filter plugs 5. Accordingly, in Atwell, there is no disclosure of a cavity receiving material from at least one pocket in a wheel wherein the at least one pocket in the same wheel receives the material from the filling chamber and the outer circumferential surface of that same wheel having the at least one pocket defines at least part of a lateral side of the filling chamber. Accordingly, it is respectfully submitted that Atwell fails to identically disclose the subject matter recited in independent claims 1 and 10, and hence dependent claims 2-9 and 11. Withdrawal of the rejection under 35 U.S.C. § 102(b) based on Atwell is therefore requested.

Claim 3 further defines a novel combination of features wherein the at least one pocket comprises a plurality of radially inwardly diverging pockets defined in the outer circumferential surface of the rotating wheel. Atwell neither discloses nor suggests the above-described novel combination of features recited in dependent claim 3, and therefore claim 3 is patentable over Atwell for the same reasons as discussed above with regard to claims 1 and 10, and for the additional features that are recited.

The Office Action also rejects Claims 1, 2, 4-7, 10 and 11 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 2,540,059 ("Stirn") for the reasons set forth at pages 3 and 4 of the Office Action.

Applicant respectfully submits that Stirn does not disclose or suggest the above-described novel combinations of features. In Stirn, the hopper 5 is positioned at the top of a filling head turret 3. A stirrer is required in the hopper 5 in order to prevent packing, channeling and uneven distribution of the fill material. Stirn neither discloses nor suggests an arrangement where the outer circumferential surface of the rotating wheel defines at least part of a lateral side of the filling chamber. Accordingly, the material within hopper 5 of the apparatus in Stirn would be resting on the top portion of the filling head turret 3 as the turret head passes through the filling chamber, rather than passing by a lateral side of

the wheel as is the case for the apparatus recited in claim 1 and the method recited in claim 10. The apparatus and method of Stirn would therefore suffer from the same disadvantages discussed in the background of the invention section of the present application wherein the relative speed between the rotating turret 3 and the material within hopper 5 would result in excessive pulverization and scattering of the particulate matter and difficulty in filling the cavities within the turret 3.

For at least the foregoing reasons, Applicant respectfully submits that Stirn fails to identically disclose or describe the subject matter recited in each of Claims 1-11. Accordingly, it is respectfully submitted that Claims 1-11 are in condition for allowance.

New claim 23 depends from claim 1, and is therefore patentable for at least the same reasons as claim 1, and moreover for the additional feature of a second insertion station that tops off a cavity that has been partially filled at a first insertion station.

New claim 24 depends from claim 10, and is therefore patentable for at least the same reasons as claim 10, and moreover for the additional feature of topping of a cavity at a second insertion station wherein the cavity was at least partially filled at the first insertion station. The claimed features in new claims 23 and 24 are disclosed in the specification at paragraph [0014], and therefore do not add new matter.

Prompt issuance of a Notice of Allowance is earnestly solicited. In the event any questions arise regarding this communication or the application in general, please contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: William O. Trousdell
William O. Trousdell
Registration No. 38,637

P.O. Box 1404
Alexandria, Virginia 22313-1404
703.838.6519
Date: April 28, 2003